IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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WEDNESDAY, THE SEVENTH DAY OF MARCH

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.2755 OF 2006

Between:

Dhondi Prakash … Petitioner

Versus

APSRTC

Represented by its Vice-Chairman,

Musheerabad, Hyderabad. & Anr. … Respondents

Counsel for the Petitioner: Sri B.Vijaysen Reddy

Counsel for the Respondent Sri VTM Prasad, SC for APSRTC

O R D E R :

The case of the petitioner is that he was allotted a shop at APSRTC bus stand, Armoor of Nizamabad district under a deed of license dated 02-4-2004 for running the business in the sale of Soda and Cool Drinks and the license period is for six years commencing from 02-4-2004 and expiring on 01-4-2010. The license fee is Rs.12,000-00 per month subject to the enhancement of 10% in the fifth year and 15% in the sixth year and pursuant to the said license he is running the said business.

While things stood thus, the second respondent issued Proceedings No.C1/122(148)/03-RM:NZB dated 21-12-2005 stating allotment of open space of 10 x 10 feet at bus station, Armoor for running the business on payment of license fee. The petitioner is informed that the work is at Armoor and accordingly in that connection the petitioner has to vacate the shop and hand over vacant possession to the Civil Engineering Department to take up expansion work and as per clause 31 of the terms and conditions annexed to the tender forms stipulates open space was allotted and he has to vacate at the time of construction for expansion of platforms etc.

Accordingly the petitioner was requested to treat the same as advance notice and vacate the said place by clearing of all the dues within three months from the date of receipt of the notice.

Pursuant to the same, the petiioner made a representation on 06-2-2006 stating that the petitioner immersed huge funds in obtaining the said shop and he will suffer loss, if he is vacated; and therefore, permitting him to continue and further request was also made that after expansion of the bus stand alternative open space in the bus stand may be allotted for the remaining lease period.

On the other hand, the respondents have filed a counter stating that for the construction of five more platforms and meeting hall, tender notification dated 06-10-2005 was called for and pursuant to the said tender notification work was allotted to Sri K.Ramana Reddy, Contractor, on 28-11-2005, who entered into an agreement with the respondents on 19-12-2005. In view of the allotment of work, the open spaces allotted to the petitioner and three other stalls for the construction of two covered platforms with waiting hall. Therefore, issued notice to the petitioner on 21-12-2005 requesting him to vacate after clearing all the dues within three months in accordance with clause 31 of the terms and conditions of the license of the said shop.

The learned counsel appearing for the petitioner submits that in fact though condition 10 of the license stipulates that in the event of any damage caused to the premises pucca stall or property of the licensor by the licensee during the subsistence of this license, the licensee shall make good to the licensor such loss that may be determined by the licensor and the licensor shall have right to recover the said sum from the security deposit.

No doubt, the said condition is there in the deed of license but subject to the said terms and conditions only the petitioner participated in the open auction and became highest bidder and obtained license and in the instant case the said condition is not there in the deed of license, it is not open for the petitioner that he has vested right to continue till the end of lease period. But however, the petitioner has completed 23 months of lease period and invested huge amount for developing and establishing the said shop, his request for allotment of alternative open space after construction of two covered platforms with waiting hall may be considered sympathetically. However, the petitioner has no right to refuse to vacate the premises so as to enable the respondents to construct two platforms with waiting hall.

The writ petition is accordingly dismissed. However, the respondents are directed to consider the case of the petitioner for allotment of alternative space in the newly covered platforms so as to enable him to carry on business on such terms and conditions as imposed by the respondent for the rest of the lease period. No costs.

MARCH 07th, 2006. ----------

Is L. V. ESWARAIAH , J.

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